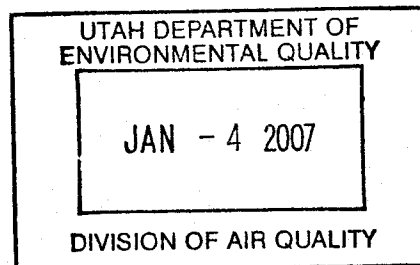


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BEFORE THE UTAH AIR QUALITY BOARD

In Re: Approval Order – the Sevier Power
Company 270 MW Coal-Fired Power
Plant, Sevier County
Project Code: N2529-001
DAQE-AN2529001-04

**PACIFICORP'S RENEWED PETITION
TO INTERVENE IN THE SIGURD
PLANT APPEAL; STATEMENT OF
STANDING**

In light of the Utah Supreme Court's recent decision granting standing to the Sierra Club and the Grand Canyon Trust (collectively, the "Sierra Club") to intervene in this proceeding, PacifiCorp submits this Renewed Petition to Intervene and respectfully requests the Board to grant standing to PacifiCorp to intervene in this proceeding. As part of its Renewed Petition, PacifiCorp incorporates herein by reference, and attaches hereto, its Original Petition to Intervene. PacifiCorp's Renewed Petition is premised on the changed conditions that: (i) the Utah Supreme Court has clarified Utah's standing law, (ii) the Sierra Club has been granted the right to intervene as a party, and (iii) counsel for the Executive Secretary has stated that the Executive Secretary no longer objects to PacifiCorp's intervention and participation as a party. In addition, PacifiCorp now has an interest in the IPP3 Project and its associated air permit that PacifiCorp did not have when it first sought to intervene in this matter.

Accordingly, pursuant to applicable law, because PacifiCorp's interests may be substantially affected by the Sierra Club's Request for Agency Action, and the interests of justice and the orderly and prompt conduct of the Request for Agency Action will not be materially impaired, the Board should grant PacifiCorp's Renewed Petition to Intervene.

I. BACKGROUND

On November 1, 2004, the Sevier County Citizens for Clean Air and Water ("Sevier Citizens") filed their Request for Agency Action and Petition to Intervene with the Utah Air Quality Board ("Board") contesting the Utah Division of Air Quality's ("UDAQ") Approval Order ("AO") granting a Prevention of Significant Deterioration ("PSD") permit to Sevier Power Company ("Sevier Power") to construct and operate a power plant in Sigurd (the "Sigurd Plant"), Sevier County, Utah (the "Appeal"). Similarly, on November 12, 2004, the Utah Chapter of the Sierra Club and the Grand Canyon Trust (collectively, the "Sierra Club") filed their Request for Agency Action and Petition to Intervene contesting the UDAQ AO. On January 4, 2005, pursuant to Utah Admin. Code R307-103-6(2), PacifiCorp, an electric utility operating in the State of Utah ("PacifiCorp") submitted its Petition to Intervene in the Appeal, and pursuant to Utah Admin. Code R307-103-6(3), PacifiCorp also submitted its Statement of Standing for such intervention.

On May 5, 2005, the Board issued its Order relating to the above-referenced Petitions to Intervene. As to Sevier Citizens, the Board granted its Petition. As to the Sierra Club, the Board denied its Petition on the basis that, among other things, it failed to establish that it had a distinct and palpable injury resulting from the Executive Secretary's granting of the permit. Order at p. 5. As to PacifiCorp, the Board also denied its Petition on the basis that, among other things, it failed to establish that it had a distinct and palpable injury resulting from the issuance of the permit. Instead, the Board granted only amicus status to both the Sierra Club and PacifiCorp.

On May 17, the Sierra Club filed a Petition for Review with the Utah Court of Appeals seeking review of the Board's May 5, 2005 Order denying intervention. On December 5, 2005, the Utah Court of Appeals certified the matter for transfer to the Utah Supreme Court for determination. On November 21, 2006, the Utah Supreme Court issued its decision, holding that the Sierra Club does have standing to challenge the AO. In so concluding, the Court took the opportunity to reiterate and clarify Utah's standing law.

Because Sierra Club has now intervened in this proceeding, and because of the other changed conditions addressed below, PacifiCorp now submits this Renewed Petition to Intervene, which incorporates by reference its original Petition to Intervene.

II. LIMITED INTERVENTION

In its original Petition to Intervene, and again in this Renewed Petition to Intervene, PacifiCorp very narrowly limits the issues or Appeal Points for which it seeks to intervene -- Appeal Points 1 (IGCC as BACT), 2 (Supercritical PC Boiler as BACT), and 3 (Greenhouse Gas Emission).

III. CHANGED CONDITIONS

A. Sierra Club's Intervention

In its previous briefing and at the previous hearing before the Board, PacifiCorp stated that it supported the AO issued by UDAQ, and that it had submitted its Petition to Intervene only in response to the Request for Agency Action. It is the Supreme Court's decision granting standing to the Sierra Club, and clarifying Utah's standing requirements, that has prompted PacifiCorp to submit this Renewed Petition to Intervene.

B. Withdrawal of Objection to PacifiCorp's Intervention

In response to both the Sierra Club's and PacifiCorp's initial Petitions to Intervene, the Executive Secretary filed objections requesting that the Board dismiss both Petitions, and the Board dismissed both Petitions. However, now that the Supreme Court has permitted Sierra Club to participate in this proceeding, the Executive Secretary no longer objects to PacifiCorp's intervention and participation as a party in this proceeding.

C. Clarification of Utah's Standing Law

In the Introduction paragraph of its decision in *Sierra Club v. Utah Air Quality Bd.*, 2006 UT 74, after concluding that the Sierra Club does have standing, the Supreme Court stated that "[i]n so concluding, we take the opportunity to reiterate and clarify Utah's standing law." *Id.*, ¶1. Under the "distinct and palpable injury" test set forth in *Jenkins v. Swan*, 675 P.2d 1145 (Utah 1983), the petitioning party must allege sufficient adverse effects, causal relationship and redressability. As to the "adverse effects" component of the "distinct and palpable injury" test, the Court clarified that this requirement can be satisfied even if those effects or grievances are the same or similar grievances shared by other individuals or a group, and in doing eased the burden of satisfying this requirement. *Id.*, ¶¶ 25 & 26.

In its May 5, 2005 Order wherein the Board dismissed both Sierra Club's and PacifiCorp's Petitions to Intervene, the Board based its decision on, among other things, Sierra Club's and PacifiCorp's failure to demonstrate a sufficient "distinct and palpable injury." Order, at pp. 5 & 7. Of course, after clarifying, and easing the burden of satisfying the "distinct and palpable injury" test, the Supreme Court held that the Sierra Club does have standing, and the Board should now do likewise and hold that PacifiCorp likewise has standing.

D. PacifiCorp's New Interest in the IPP3 Project

Since PacifiCorp submitted its original Petition to Intervene, PacifiCorp has purchased a significant interest in the proposed power plant Unit #3 at the Intermountain Power Plant ("IPP3"), in Millard County, Utah. The outcome of this Appeal has significant implications for IPP3, and its constituent owners such as PacifiCorp. In other words, the adverse impacts of a

decision in favor of the Sierra Club here would not be limited to Sevier Power, but would extend to the IPP3 and PacifiCorp as well.¹

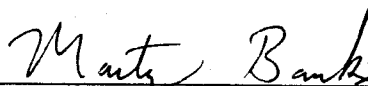
IV. CONCLUSION

PacifiCorp has provided herein all of the required components for its Renewed Petition to Intervene. The Utah Administrative Code provides that a petition to intervene "*shall* be granted" if the requirements of 63-46b-9(2) are met. Utah Admin. Code R307-103-6(2)(e). As demonstrated above, PacifiCorp's "legal interest may be substantially affected by the formal adjudicative proceeding," and "the interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing the intervention." Accordingly, PacifiCorp respectfully requests that the Board grant its Renewed Petition to Intervene.

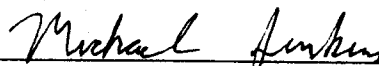
Dated this 2nd day of January, 2007.

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¹ Since PacifiCorp submitted its original Petition to Intervene, it has withdrawn its then pending Hunter Unit 4 NOI. The same arguments asserted in PacifiCorp's original Petition to Intervene regarding that Hunter Unit 4 NOI apply with even more force to PacifiCorp's newly obtained interest in IPP3.

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd Day of January, 2007, I caused a copy of the forgoing Renewed Petition to Intervene to be mailed and emailed by United States Mail, postage prepaid, to the following:

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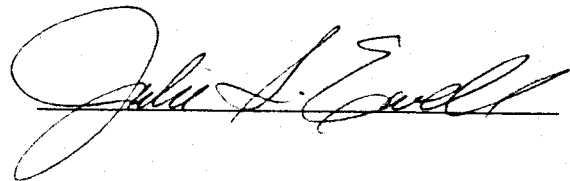
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BEFORE THE UTAH AIR QUALITY BOARD

In Re: Approval Order – the Sevier Power
Company 270 MW Coal-Fired Power
Plant, Sevier County
Project Code: N2529-001
DAQE-AN2529001-04

**PACIFICORP'S PETITION TO
INTERVENE IN THE SIGURD PLANT
APPEAL; STATEMENT OF STANDING**

On November 12, 2004, the Utah Chapter of the Sierra Club and the Grand Canyon Trust (collectively, "SC/GCT") filed their Request for Agency Action with the Utah Air Quality Board ("Board") contesting the Utah Division of Air Quality's ("UDAQ") Approval Order ("AO") granting a Prevention of Significant Deterioration ("PSD") permit to Sevier Power Company ("Sevier Power") to construct and operate a power plant in Sigurd (the "Sigurd Plant"), Sevier County, Utah (the "Appeal"). Pursuant to Utah Admin. Code R307-103-6(2), PacifiCorp, an electric utility operating in the State of Utah ("PacifiCorp") hereby submits its petition to intervene in the Appeal ("Petition to Intervene"). Furthermore, pursuant to Utah Admin. Code R307-103-6(3), PacifiCorp also herein demonstrates facts sufficient to establish standing for such intervention.

I. INTRODUCTION

PacifiCorp supports the AO issued by UDAQ in regard to the Sigurd Plant and opposes the Appeal of that AO by SC/GCT. The outcome of the Appeal has significant implications for any entity, like PacifiCorp, that has pending with UDAQ a Notice of Intent ("NOI") seeking an AO for a proposed new PSD permitted, coal-fired generating unit in the State of Utah. In addition, the outcome of this Appeal has significant implications for all entities, like PacifiCorp, that currently operate PSD permitted, coal-fired generating units pursuant to existing AOs. Moreover, the outcome of this Appeal has significant implications for PacifiCorp in light of its Integrated Resource Plan ("IRP") on file in various public forums, including the Utah Public Service Commission, indicating PacifiCorp's need for ever-expanding generation requirements into the future to meet expected load requirements in the State of Utah.¹ In other words, the adverse impacts of a decision in favor of SC/GCT would not be limited to Sevier Power, but would extend to PacifiCorp and others. Pursuant to applicable law, because PacifiCorp's interests may be substantially affected by the Appeal, and the interests of justice and the orderly and prompt conduct of the Appeal will not be materially impaired, the Board should grant PacifiCorp's Petition to Intervene.

II. COMPONENTS OF PETITION TO INTERVENE

The Utah Administrative Code requires that a petition to intervene "shall meet the requirements of 63-46b-9." Utah Admin. Code R307-103-6(2)(a) (2001). The referenced section of the Utah Code, Section 63-46b-9(1), requires that a petition include the following:

- a. **the agency's file number or other reference number:** (UDEQ's file number for the Sigurd Plant AO is "DAQE-AN2529001-04," and its Project Code number is "N2529-001.");
- b. **the name of the proceeding:** (as noted in the caption of this Petition);
- c. **a statement of facts [i.e., Statement of Standing] demonstrating that the petitioner's legal rights or interests are substantially affected by the formal adjudicative proceeding, or that the petitioner qualifies as an intervenor under any provision of law:** (as noted below in Section III.A.); and
- d. **a statement of the relief that the petitioner seeks from the agency:** (PacifiCorp hereby states that it seeks an order from the Board affirming the Sigurd Plant AO, and denying each and every aspect of the relief sought by SC/GCT in their Request for Agency Action).

Accordingly, this Petition to Intervene includes all of the required components.

¹ A copy of the IRP can be found at the following link:
<http://www.pacificorp.com/Navigation/Navigation23807.html>

III. RIGHT TO INTERVENE

The Utah Administrative Code provides that a "Petition to Intervene shall be granted if the requirements of 63-46b-9(2) are met." Utah Admin. Code R307-103-6(2)(e). The referenced section of the Utah Code, Section 63-46b-9(2), provides that the presiding officer "shall grant a petition for intervention if the presiding officer determines that:

- (a) the petitioner's legal interest may be substantially affected by the formal adjudicative proceeding; and
- (b) the interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing the intervention.

This section grants a conditional right to intervene if the requisite legal interest is present, subject to the condition that the interests of justice and orderly conduct of the administrative proceeding not be impaired by the intervention. *Millard County v. State Tax Comm'n*, 823 P.2d 459, 462 (Utah 1991).

A. Legal Interest May Be Substantially Affected (Statement of Standing)

This first statutory criteria for determining a right to intervene is satisfied by establishing standing under Utah case law. See *Sierra Club v. Dep't of Env'tl. Quality*, 857 P.2d 982, 985-86 (Utah Ct. App. 1993).² Under applicable Utah case law, a party may establish standing by complying with the requirements of any one of the three alternative standards articulated by the Utah Supreme Court in *Jenkins v. Swan*, 675 P.2d 1145, 1150-51 (Utah 1983). See also, *National Parks and Conservation Ass'n v. Board of State Lands*, 869 P.2d 909, 913 (Utah 1994). To establish standing, *Jenkins* requires that a party demonstrate any one of the following: (1) a personal stake in the controversy (adversely affected) and some causal relationship between the injury, the governmental actions, and the relief requested; (2) that no other party has a greater interest in the outcome of the case and that the issues are unlikely to be raised at all unless the present party has standing to raise them; or (3) that the issues are of sufficient public importance that they ought to be decided in furtherance of the public interest. *Archer v. Ashley Creek Phosphate Co.*, 907 P.2d 1142, 1145 (Utah 1995)(citing *Jenkins*, 675 P.2d at 1150-51). As noted below, PacifiCorp is clearly able to establish standing under one or more of the three standards.

1. Adversely Affected:

The first and most commonly employed standard requires a party to show that it "has a personal stake in the controversy. One who is adversely affected by governmental actions has standing under this criterion. One who is not adversely affected has no standing." *Jenkins*, 675 P.2d at 1150. To determine whether a party petitioning for intervention has the requisite

² The Utah Administrative Code provides that "[n]o person may initiate or intervene in an agency action unless that person has standing. Standing shall be evaluated using applicable Utah case law." Utah Admin. Code R307-103-6(3).

personal stake in the proposed governmental action, the Board must first consider the "claims of adverse impact," then the "alleged causal relationship between the governmental action and the adverse impact," and finally, the "likelihood that the relief requested will reduce the adverse injury claimed." *Society of Prof. Journalists v. Bullock*, 743 P.2d 1166,1173 (Utah 1987).

a. Claims of Adverse Impact

A decision by the Board in favor of SC/GCT will clearly result in adverse impacts to PacifiCorp:

(1) *Pending Hunter Unit 4 NOI*

As noted above, PacifiCorp has an NOI currently pending before UDAQ in connection with a possible new Unit 4 at the Hunter power plant in Emery County ("Hunter Unit 4").³ A decision in favor of SC/GCT would have very specific adverse impacts on the ultimate terms and conditions that are imposed in future AOs, and on the procedures for receiving future AOs, for coal-fired generating units, including the AO for Hunter Unit 4.

As an example, a decision in favor of SC/GCT would likely require a completely different electricity generating technology (*i.e.*, Integrated Gasification Combined Cycle ("IGCC")) than is currently proposed in the Hunter Unit 4 NOI. Such a decision would impact not only the Sigurd Plant, but likely Hunter Unit 4 and any other future proposed coal-fired generating units. This would significantly increase the overall project cost of Hunter Unit 4 as compared to the generating technology proposed in the pending NOI. In addition, the costs associated with the delay in revising, resubmitting and reprocessing the pending Hunter Unit 4 NOI would present a separate significant additional adverse impact. A Board order in this Appeal granting the relief sought by SC/GCT would, quite literally, amount to a changing of the rules for the Hunter Unit 4 NOI during the last minute of the game.

In addition, the Appeal raises several issues that go directly to the nature, scope and procedure of UDAQ's review of NOIs generally. Such points have state-wide implications for those entities, like PacifiCorp, currently seeking an AO and those entities which may seek an AO in the future. For example, SC/GCT asserts that:

- UDAQ failed to consider adequately IGCC in its BACT analysis for the Sigurd Plant;
- UDAQ erroneously failed to address carbon dioxide and other greenhouse gas emissions;
- UDAQ failed to consider sufficiently activated carbon injection for control of mercury emissions from the Sigurd Plant in its MACT determination;

Along these lines, the Appeal declares "UDAQ is required to evaluate this [IGCC] technology comprehensively as part of its BACT analysis." Appeal, at 4. The clear intent of the Appeal is to

³ PacifiCorp has not yet made a final decision whether to build Hunter Unit 4. Receipt of an acceptable AO is critical in helping to make that decision. In addition, the final decision will be made in connection with the IRP (as noted above) and in compliance with Utah Public Service Commission requirements and all other applicable rules.

require UDAQ to impose on the Sigurd Plant and on all other coal-fired generating units seeking an AO a much more exhaustive permit process. The clear intent is also to mandate much more sophisticated and expensive equipment, to require far more stringent emission limitations, and to create a precedent that will apply to all future permit review. Of course, this more exhaustive process (along with the more expensive equipment, more stringent limitations, etc.) will have significant adverse impacts on PacifiCorp.

As such, PacifiCorp has a significant interest in the technology and other requirements that are being mandated in such AOs, the emission limitations that are being imposed, the resource and monitoring data that are being required, the scope of the impact analysis that is being demanded, and procedures that are being used for reviewing and processing such NOIs. Each of these significant, adverse impacts on the Hunter Unit 4 NOI and the Hunter 4 project are sufficient to justify PacifiCorp's participation in this Appeal and for the Board to grant PacifiCorp's Petition to Intervene.

(2) *Largest Owner of PSD Permitted, Coal-Fired Generating Units in the State*

PacifiCorp is the largest owner of PSD permitted, coal-fired, generating units in the State of Utah, including Carbon Units 1 and 2, Huntington Units 1 and 2 and Hunter Units 1, 2 and 3. Even though the Appeal is targeted at the AO for the Sigurd Plant, a decision in favor of SC/GCT still could have an extremely significant and far-reaching adverse impact in regard to existing AOs at PacifiCorp's coal-fired generating units in Utah.

Utah state and federal PSD requirements generally require submission of an NOI and imposition of BACT for any new or modified coal-fired unit. See Utah Admin. Code R307-405-6; 42 U.S.C. § 7475 & 7479. Although SC/GCT's points of appeal are presented in the context of an AO for the Sigurd Plant, the result (intended or not) of a successful appeal would be the general implementation of a far more stringent permit review framework in connection with any AO that must comply with PSD requirements, including those for modifications at existing coal-fired units. The Appeal seeks a Board mandate requiring UDAQ to implement a more stringent permit review process, to require more exacting and expensive technology, to require more elaborate modeling, to impose more stringent emission limits, to require the submittal of more resource and monitoring data, to require more expanded impact analyses, to impose unnecessary delays in the final approval process, etc. A decision in favor of SC/GCT would effectively result in a dramatic policy shift for handling AOs for existing coal-fired generating units. This context is sufficient to justify PacifiCorp's participation in the Appeal and for the Board to grant PacifiCorp's Petition to Intervene.

(3) *Implications of PacifiCorp's Existing Emissions*

PacifiCorp has a significant interest in ensuring that the nature and extent of emissions from its existing generating units are properly characterized in the context of the modeling and increment analyses that are being done in connection with the Sigurd Plant. In its Appeal,

SC/GCT makes various assertions relating to emissions in general which include those from existing PacifiCorp facilities:

- UDAQ failed to consider the cumulative effect of all sources on NAAQS;
- UDAQ illegally exempted the Sigurd Plant from a cumulative Class I increment analysis; and,
- UDAQ erroneously concluded that the Sigurd Plant would not contribute to Class I SO₂ increment violations at Capitol Reef National Park.

Specifically, in paragraph 9 of its Appeal, SC/GCT references an increment analysis that purportedly "shows that existing sources in Utah are causing violations of the 3-hour average Class I increment in Capitol Reef National Park," and SC/GCT also asserts that Sevier Power "failed to include all increment consuming emissions in its analysis, including the emissions of other proposed new facilities" Appeal, at p. 8.

PacifiCorp has a significant interest in ensuring that existing emissions at its various generating units are properly characterized in all proceedings before UDAQ and the Board. In the event SC/GCT or any other party in the Appeal, or any member of the public, mischaracterizes either the nature or the extent of PacifiCorp's existing emissions, PacifiCorp will suffer adverse impacts if it does not have party status to monitor and have a role in immediately correcting any such mischaracterizations.

In summary, PacifiCorp's claims of adverse impacts are irrefutable. A decision in favor of SC/GCT will have adverse impacts on PacifiCorp's pending Hunter Unit 4 NOI. If the Board accepts SC/GCT's assertions, UDAQ's AO review process will be significantly modified, the consequences of which will extend far beyond the Sigurd Plant AO to reach all future AOs for new, coal-fired generating units as well as modifications to existing units. A decision in favor of SC/GCT will also have adverse impacts on PacifiCorp's ability to ensure that the nature and extent of its existing emissions are properly characterized in the context of the modeling and increment analyses being done in connection with the Sigurd Plant. PacifiCorp clearly has legitimate interests in the manner in which UDAQ reviews and processes NOIs and existing AOs. A decision in favor of SC/GCT would have an adverse impact on PacifiCorp that gives it a "personal stake" in the outcome of the Appeal.

b. Causal Relationship between Governmental Action and Adverse Impact

This "adverse impact" that would be suffered by PacifiCorp would arise directly out of a Board ruling in favor of SC/GCT. Therefore, a clear "causal relationship" exists between the governmental action requested in the Appeal and the adverse impact. If the Board agrees with SC/GCT, and requires, *inter alia*, more demanding MACT/BACT review and greenhouse gas regulation, PacifiCorp likely will be forced to comply with the same heightened AO review standards for the Hunter Unit 4 NOI and arguably at any modification taking place at its existing coal-fired generating units. Such compliance would significantly increase PacifiCorp's costs and likely undermine the feasibility of future projects.

c. Likelihood that Relief Requested will Reduce Injury

PacifiCorp requests that the Board reject the Appeal. If the Board grants that relief and rejects the Appeal, there is a likelihood (in fact, a near certitude) that the above-referenced injury (*i.e.*, adverse impacts) will be reduced or even eliminated.

In summary, whether a party has the requisite stake to challenge a governmental action turns on (1) the existence of an adverse impact, (2) a causal relationship, and (3) the likelihood that the relief requested will reduce the injury. *Jenkins*, 675 P.2d at 1150. Accordingly, as demonstrated above, PacifiCorp would be adversely impacted, a causal relationship would exist between the granting of the Appeal and the adverse impacts, and it is likely that the relief requested by PacifiCorp would reduce the injury. Accordingly, under the first of the three *Jenkins* standards, PacifiCorp's legal interests may be substantially affected, and it should be deemed to have standing to intervene in the Appeal.

2. No Greater Interest:

Even if a petitioning intervenor cannot meet the "adversely affected" standard, standing may still be established if "no one else has a greater interest in the outcome of the case and the issues are unlikely to be raised at all unless that particular plaintiff has standing to raise the issue." *Terracor v. Utah Bd. of State Lands & Forestry*, 716 P.2d 796, 799 (Utah 1986); *Society of Prof. Journalists*, 743 P.2d at 1173.

Under this second *Jenkins* standard ("no greater interest"), PacifiCorp, as the largest owner of PSD permitted, coal-fired generating units in the State of Utah, has a greater interest in the outcome of this Appeal than anyone else because it has more potentially affected units than anyone else. By virtue of its status as the largest owner of PSD permitted, coal-fired generating units, PacifiCorp has the greatest interest in the technological and other requirements that are being mandated in such AOs, the emission limitations that are being imposed, the resource and monitoring data that are being required, the scope of the impact analyses that is demanded, and the procedures that are being used for reviewing and processing such NOIs and AOs. A decision in favor of SC/GCT would have extremely significant, and very far-reaching impacts on the PSD permitting for all existing and future coal-fired generating units in the State, with PacifiCorp shouldering the biggest share of those impacts.

In addition, although some of the issues of concern to PacifiCorp will also affect other parties in the Appeal, there are a number of other issues of concern that are unlikely to be raised at all unless PacifiCorp has standing to raise them. For example, as discussed above, in paragraph 9 of its Appeal, SC/GCT references an increment analysis that purportedly "shows that existing sources in Utah are causing violations of the 3-hour average Class I increment in Capitol Reef National Park," and SC/GCT also asserts that Sevier Power "failed to include all increment consuming emissions in its analysis, including the emissions of other proposed new facilities" Appeal, at p. 8.

PacifiCorp has a significant interest in monitoring how SC/GCT characterizes the existing emissions from PacifiCorp's units. In the event SC/GCT or any other party in the Appeal, or any member of the public, mischaracterizes (intentionally or otherwise) either the

nature or the extent of PacifiCorp's existing emissions, such mischaracterization is unlikely to be raised at all unless PacifiCorp has standing to monitor and have a role in immediately correcting any such mischaracterizations.

Accordingly, under this second of the three *Jenkins* standards, no one else has a greater interest in the outcome of at least portions of this Appeal than PacifiCorp. Moreover, some of the issues of concern to PacifiCorp are unlikely to be raised at all unless PacifiCorp has standing to raise them.⁴

B. Interests of Justice and Orderly and Prompt Conduct of Proceedings will Not be Materially Impaired

Because of the broad implications that this Appeal will have on the utility industry in the State of Utah, the involvement of another impacted industry participant (*i.e.*, the largest owner of PSD permitted, coal-fired generating units in the State) would bring additional insight and perspective to the Board's decision-making process, and would promote the interests of justice. If PacifiCorp were allowed to promptly intervene in the Appeal before the Board has had a chance to consider the various substantive arguments to be asserted by Sevier Power, SC/GCT and any other parties that may intervene, PacifiCorp's involvement would not impair the orderly or the prompt conduct of the proceedings.

⁴ Because PacifiCorp clearly satisfies the first and the second of the three alternative *Jenkins* standards, it will not unnecessarily lengthen this Petition by including a section addressing the third *Jenkins* standard, but rather reserves the right to raise and address the third alternative standard at a later time if necessary.

IV. CONCLUSION

PacifiCorp has provided herein all of the required components for its Petition to Intervene. The Utah Administrative Code provides that a petition to intervene "*shall* be granted" if the requirements of 63-46b-9(2) are met. Utah Admin. Code R307-103-6(2)(e). As demonstrated above, PacifiCorp's "legal interest may be substantially affected by the formal adjudicative proceeding," and "the interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing the intervention." Accordingly, PacifiCorp respectfully requests that the Board grant its Petition to Intervene.

Dated this 4th day of January, 2005.

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